



January 26, 2007

The Honorable Don Perata
California Senate pro Tempore
State Capitol, Room 205
Sacramento, California 95814

Dear Senator Perata,

I am writing in answer to your letter of January 22, 2007. Let me assure you that the Schwarzenegger Administration and the Resources Agency share your concerns with respect to the Pacific Lumber Company bankruptcy filing. We intend to be dogged and unyielding in our efforts to protect California's interests and hold Palco to all of its obligations, including those under AB 1986 and the Headwaters Agreement.

There are legal teams from the Resources Agency, Department of Forestry and Fire Protection (CDF), Department of Fish and Game (DFG), State and Regional Water Quality Control Boards, and the Attorney General's Office engaged and working on a coordinated legal strategy to protect all of California's interests and rights. The Agreement Relating to Enforcement of AB 1986 required that the company record covenants on the land. The covenants were recorded over the land in 1999. They remain in place for 50 years from that date. They were required in large part to ensure protection in the event of bankruptcy or change of ownership. The Habitat Conservation Plan (HCP) is still in effect even though the company has filed for bankruptcy.

The HCP is a part of permits issued by the state and the federal governments under their respective Endangered Species Acts. Although the state permit is stayed pending review by the California Supreme Court, determinations made by DFG pursuant to the state Endangered Species Act, (that the federal permits are consistent with the state law), are based upon compliance with the HCP. This and other obligations to comply with state and federal law remain, notwithstanding the bankruptcy filing. The state and federal governments are still able to enforce their laws through their respective regulatory powers, that include, but are not limited to, the state and federal Endangered Species Acts.

Although this bankruptcy is in its early stages, we are proceeding forward with filings to protect California's interests. In order to protect the HCP and other interests, we have just this week ensured that the following provision: "ORDERED that nothing in this Order shall relieve the Debtor of any obligations under federal state or local police or regulatory laws or under 28 U.S.C. section 959(b), nor authorize expenditures beyond the amounts allowed herein" is contained in the applicable interim bankruptcy orders. In addition, we have advised the court that we will be filing a motion to change the venue from the Southern District of Texas to California. We expect, and will make every effort to ensure, that all obligations to California will be honored and remain in effect through this proceeding.

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In December, Palco made a variety of requests to CDF, DFG, and the federal wildlife agencies relating to the HCP. Consideration of these requests is currently on hold as a result of the bankruptcy, and CDF and DFG have had no further contact with the company on these requests since the filing. I also understand that in light of the bankruptcy, the state and regional water boards are assessing the status of Palco's obligations under the Porter-Cologne Water Quality Control Act and regulatory orders the water boards have issued pursuant to that act.

The Attorney General's office is serving as lead counsel in what we believe will be a complicated case. Any more specific legal questions you have should be directed there, but I and the resources of this agency are always available to you.

We stand together, Senator, committed to ensuring that all provisions of the Headwaters Agreement remain in effect to protect California interests, now and through the 50 year requirements of the deal, regardless of the outcome of the Palco bankruptcy filing. Please do not hesitate to call me if you would like to discuss this matter further.

Sincerely,

A handwritten signature in cursive script that reads "Mike Chrisman".

Mike Chrisman
Secretary for Resources